UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,	*	
Plaintiff,	*	
	*	
v.	*	**Criminal No. 12-414 (DRD)**
	*	
HIAM J. FONTANEZ-CARABALLO [51],	*	
	*	
Defendant.	*	
	*	

ORDER APPROVING MAGISTRATE-JUDGE'S REPORT AND RECOMMENDATION RE: RULE 11 PROCEEDINGS

The Court has evaluated the Magistrate-Judge's Report and Recommendation of the Rule 11 proceedings regarding defendant **HIAM J. FONTANEZ-CARABALLO [51],** contained in the Report and Recommendation dated May 9, 2013, Docket No. 1049.

The principal consideration is whether that plea was knowingly, voluntary and intelligently made within the terms of Rule 11, United States v. Isom, 85 F. 3d 831, 835-837 (1 Cir. 1996). In order to ascertain whether defendant made a knowingly, voluntary and intelligent plea, the Court of Appeals of the First Circuit has identified three core concerns: absence of coercion, defendant's understanding of the charges and the defendant's knowledge of the consequences of the guilty plea. United States v. Gray, 63 F. 3d 60-61, (1st Cir. 1995), United States v. Cotal Crespo, 47 F. 3d 1, 4 (1st Cir.) cert. denied 516 U.S. 827, 116 S. Ct. 94 (1995).

The Court in examining the three core concerns must "review the totality of the circumstances surrounding the Rule 11 hearing, rather than apply a 'talismatic test'," United States v. Cotal Crespo, 47 F. 3d at 4-5.

The Court having examined the Report and Recommendation of the Magistrate Judge finds that the plea was knowingly, voluntary and intelligent as understood in the terms of Rule 11. The plea of defendant **HIAM J. FONTANEZ-CARABALLO [51],** is therefore, accepted and the defendant is adjudged guilty as to Count One (1) of the Indictment.

IT IS SO ORDERED.

At San Juan, Puerto Rico, this 21st day of October, 2013.

S/ DANIEL R. DOMÍNGUEZ
DANIEL R. DOMÍNGUEZ
U.S. DISTRICT JUDGE